IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17093 of 2004

Between:
M/s Sagar Cements Limited, Mattampalli - 508 204, Nalgonda District, rep.by its Executive4 Director, Dr.S.Anand Reddy
..... PETITIONER

AND

1 The Commercial Tax Officer, Kodad, Nalgonda District
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad
3 The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction quashing the order of the 3rd respondent in CCT's Ref/LIII(3)763/04 dated 25-8-2004 refusing to grant stay of collection of disputed tax of Rs.1,74,080/- for the assessment year 1999-2000 as arbitrary and unjustified and consequently restrain the 1st respondent from taking any coercive steps for recovery of disputed tax pending disposal of the appeal before the 2nd respondent and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.S.DWARAKANATH

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXEX

The Court made the following O R D E R:
(Per the Hon'ble Sri Justice Bilal Nazki)**:**

Rule Nisi. Learned Government Pleader for Commercial Taxes takes notice. At this stage, with the consent of the parties, the writ petition is being disposed of.

The petitioner had filed an application for stay, before the Additional Commissioner of Commercial Taxes (Legal), Hyderabad, pending appeal before the Appellate Deputy Commissioner of Commercial Taxes, Hyderabad. The Additional Commissioner rejected the application and the Writ Petition is filed.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the Additional Commissioner of Commercial Taxes and direct that 50 per cent of the liability shall be discharged by the petitioner within a period of six weeks, subject to outcome of the appeal. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal if half of the liability is discharged during this period. However, if the petitioner fails to deposit the amount, the stay shall stand vacated automatically.

The writ petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

23rd September, 2004

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(S.ANANDA REDDY,J)

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To

1 The Commercial Tax Officer, Kodad, Nalgonda District
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad
3 The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad
4 Two C.Cs to the Government Pleader for Commercial Taxes, High Court of A.P., Hyderabad (OUT)
5 Two C.D copies